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10/763,253	01/26/2004	Tomohiro Shinoda	KAW-315-USAP	8016

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EXAMINER

PINHEIRO, JASON PAUL

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3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/763,253	Applicant(s) SHINODA, TOMOHIRO	
	Examiner Jason Pinheiro	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. After the amendment filed on 12/05/2007, Claims 2-13 were amended. As a result claims 1-14 are pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 7, and 10-14 rejected under 35 U.S.C. 103(a) as being unpatentable over Stamper (GB 2334456) in view of Street Fighter EX3 (EX3).

Regarding claims 1, 7, and 14: Stamper '456 discloses a gaming machine (Pg. 7, Line 4) (Fig. 5); the gaming machine having a main data carrier (Fig. 1) which stores main data including a capacity value of the main character (Pg. 9, Lines 1-22) and a sub data carrier (Fig. 6b) which stores sub data including a capacity value of the sub character (Pg. 9, Lines 1-22); the gaming machine comprising: a main data reading device which reads the main data from the main data carrier (Pg. 6, Lines 18-21); a sub data reading device which reads the sub data from the sub data carrier (Pg. 6, Lines 18-21); a game controlling device which proceeds with the game, at least according to the main data read by the main data reading device and a control signal from a controller (Pg. 6, Line 22 – Pg. 7, Line 14). However, Stamper does not disclose an inviting device which

determines according to the capacity value of the main character and the capacity value of the sub character read by the sub data reading device whether to make the sub character appear in the game or not during the game and making the sub character appear in the game according to a result of the determination.

Street Fighter EX3 does include a mode in which a sub character appears when the capacity value (Super Combo Level) of the main character and the sub character reach a predetermined level ("Critical Parade") (EX3, Pg. 5).

Therefore it would have been obvious to one skilled in the art to include the teachings of Street Fighter EX3 into the teachings of Stamper in order to create a more convenient and enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18)

Regarding claim 2: Stamper discloses that which is discussed above. However Stamper does not disclose that the inviting device makes the sub character appear in the game when the capacity value of the main character exceeds a specific value determined according to the capacity value of the sub character read by the sub data-reading device.

Street Fighter EX3 does disclose that the main character must have 2 Super Combo Points in order to have the sub character appear ("Critical Parade")(EX3, Pg. 5).

Therefore it would have been obvious to one skilled in the art to include the teachings of Street Fighter EX3 into the teachings of Stamper in order to

create a more convenient and enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18).

Regarding claim 3: Stamper discloses that which is discussed above. However Stamper does not disclose that a capacity value reducing device which reduces the capacity value of the main character when the inviting device makes the sub character appear in the game.

Street Fighter EX3 does disclose that the main character must use 2 Super Combo Points in order to have the sub character appear ("Critical Parade")(EX3, Pg. 5).

Therefore it would have been obvious to one skilled in the art to include the teachings of Street Fighter EX3 into the teachings of Stamper in order to create a more convenient and enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18).

Regarding claim 4: Stamper discloses that which is discussed above. Stamper further discloses that the main data carrier is an action figure simulating an appearance of the main character (Pg. 5, Line 21 – Pg. 6, Line 3).

Regarding claim 5: Stamper discloses that which is discussed above. Stamper further discloses that the sub data carrier is depicted with an appearance of the sub character (Pg. 4, Lines 21-24). Although Stamper does not disclose that the data carrier is in the shape of a ball, Stamper does disclose that the data carrier can be of any shape (Pg. 7, Lines 19-21) and it would have been an obvious modification to one skilled in the art to modify the shape of the

data carrier to be a ball in order to make a more attractive and intriguing game for players to play.

Regarding claim 10: Regarding claim 4: Stamper discloses that which is discussed above. Stamper further discloses a data carrier table which mounts the main and sub data carriers (Pg. 6, Lines 3-8)(Fig. 2).

Regarding claims 11, and 12: Stamper discloses that which is discussed above. Stamper further discloses a reader/writer which reads the data stored in the data carrier and writes the data into the main data carrier (Pg. 11, Lines 4-5, Pg. 4, Lines 1-9).

Regarding claim 13: Stamper discloses that which is discussed above. However Stamper does not disclose that the capacity values of the main and sub characters comprise at least one of physical, offensive, and magical power values.

Street Fighter EX3 does disclose the capacity values of the main and sub characters comprise at least one of physical, offensive (Super Combo Level), and magical power values.

Therefore it would have been obvious to one skilled in the art to include the teachings of Street Fighter EX3 into the teachings of Stamper in order to create a more convenient and enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18).

4. Claims 6, and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stamper (GB 2334456) in view of Street Fighter EX3 (EX3) as applied to claim 1 above, and further in view of Takahiro et al (JP 2002-325970).

Regarding claim 6: Stamper and EX3 disclose that which is discussed above. However neither Stamper nor EX3 disclose that a transponder of a radio frequency identification (RFID) system is utilized as at least one of the main and sub data carriers.

Takahiro does disclose that a transponder of a radio frequency identification (RFID) system is utilized as at least one of the main and sub data carriers. (Abstract).

Therefore it would have been obvious to one skilled in the art to include the teachings of Takahiro into the combined teachings of Stamper and Street Fighter EX3 in order to help create a smoother and enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18).

Regarding claim 8: Regarding claim 6: Stamper and EX3 disclose that which is discussed above. However neither Stamper nor EX3 disclose a display device which displays at least one of an image related to the game and a state of proceeding with the gaming machine.

Takahiro does disclose a display device which displays at least one of an image related to the game and a state of proceeding with the gaming machine (Paragraph [0016])(Drawing 1).

Therefore it would have been obvious to one skilled in the art to include the teachings of Takahiro into the combined teachings of Stamper and Street Fighter EX3 in order to allow the player to display the game and therefore create a more enjoyable game for players to play (Stamper, Pg. 2, Lines 2-6, Pg. 3, Lines 1-18).

Regarding claim 9: Regarding claim 6: Stamper and EX3 disclose that which is discussed above. EX3 further discloses that a representation image concerning the sub character is displayed on the display device according to emergence of the sub character in the game caused by the inviting device (Second character appears on the screen during the "Critical Parade") (Pg. 5).

Response to Arguments

5. Applicant's arguments filed 12/05/2007 have been fully considered but they are not persuasive. In response to applicant's argument that the prior art reference (Stamper) does not distinguish between a main character and a sub-character, if the prior art structure is capable of performing the intended use then it meets the claim. The applicant's use of the names "main" and "sub" to describe the characters does not patentably distinguish over the prior art reference. Stamper's invention is capable of performing in the same manner as the applicant's invention. In response to applicant's argument that the prior art reference (EX3) does not disclose whether to make a sub character appear by considering the capacity value of the main character and the capacity value of the sub character. The examiner disagrees with this, the "Critical

Parade" of EX3 requires 2 Super Combo levels from both the main character and the sub character, if either player does not have the required Super Combo levels, then the "Critical Parade" will not occur. Even though the player inputs the required key strokes, if the player does not possess the required Super Combo levels the keystrokes will not result in the "Critical Parade" unless it is determined that the main and sub characters possess the required Super Combo level.

6. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON PINHEIRO whose telephone number is (571)270-1350. The examiner can normally be reached on M - F 8:00 AM - 4 PM;.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert E Pezzuto/
Supervisory Patent Examiner, Art Unit 3714
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01/31/2008